

**OPINION  
49-153**

December 22, 1949            (OPINION)

OFFICERS

RE:   Public Service Commissioner

I acknowledge receipt of your letter of December 21, 1949, requesting an opinion from this office relative to the appointment of Mr. Nelson of Sentinel Butte as a member of the Public Service Commission by Governor Aandahl, and as to whether the said appointment of Mr. Nelson will be for the full unexpired term of Mr. Larkin or whether it will be only until the next election.

In reply, I wish to quote section 44-0208 of the North Dakota Revised Code of 1943, and I believe that this will be binding on this case, and hence it is the opinion of this office that Mr. Ernest Nelson will hold office until the expiration of the term of Mr. Larkin rather than merely until the next general election.

The only constitutional provision which is different from the statute and supersedes the statute is the provision as to Supreme Court judges and their appointment is only until the next election, regardless of the length of the unexpired term.

44-0208. APPOINTMENT TO BE MADE IN WRITING; TERM. Any appointment to fill a vacancy under the provisions of this chapter shall be made in writing, and except as otherwise expressly provided by law shall continue in force until the expiration of the term in which the vacancy occurs, and until the appointee's successor is elected and qualified.

WALLACE E. WARNER

Attorney General